

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER, MINNESOTA
Regular Meeting No. 28 – December 1, 2003

6934

| Agenda Item | |
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| A-1 | No one wished to be heard during the Open Comment Period. |
| B-1 | President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, Walter Stobaugh. Absent: None. Also present: Mayor Ardell F. Brede. |
| D-1-30 | Councilmembers Hanson moved, Marcoux seconded, to approve the following consent agenda items. |
| D-1 | Approved the minutes of the November 17, 2003, council meeting. |
| D-2 | Authorized up to \$500,000 in sales tax funding for the University Center Rochester Regional Sports Center sound system. |
| D-3 | Adopted Resolution No. 604-03 entering into a contract with Progressive Urban Management Systems in the amount of \$72,566 for the preparation of a downtown plan. |
| D-4 | Approved the proposed revisions to Chapters 34 and 38 of the Rochester Housing Code pertaining to fee schedules and other changes, and instructed the City Attorney to prepare the required ordinance for adoption. |
| D-5 | Adopted Resolution No. 605-03 directing the City Clerk to publish notice of a public hearing on January 5, 2004, to consider the proposed amendment to change election notification timelines for special elections for vacant offices. |
| D-6 | Approved the following licenses and miscellaneous activities: <u>Off-Sale 3.2 Percent Beer</u> UNA Food Store, 2130 South Broadway <u>Gambling – Premise Permit</u> CLIMB, Inc. – Premise Permit at Colonial Lanes <u>Signs</u> Kaufman Sign Company, Minneapolis |
| D-7 | Adopted Resolution No. 606-03 taking no action on the Currency Exchange Licenses for the Wal-Mart Stores at 25 25 th Street S.E. and 3400 55 th Street N.W. |
| D-8 | Approved Accounts Payable in the amount of \$6,112,099.37 and Investment Purchases of \$4,199,375.00. |
| D-9 | Adopted Resolution No. 607-03 accepting Hawkins Chemical as low bid for a one-year supply of Liquor Aluminum Sulfate at a cost of \$83,700 and Eaglebrook, Inc. as low bid for a one-year supply of Anhydrous Ferric Chloride at \$104,000. |

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| D-10 | Adopted Resolution No. 608-03 approving the issuance of \$4.3 million in Multifamily Housing Revenue Bonds on behalf of Eastridge Associates, LLC, pending final amendments to documents to the satisfaction of issuer's bond counsel. |
| D-11 | Approved the name change for the segment of roadway that abuts Lot 5, Block 1, located in Folwell West Second Subdivision from Sixth Street S.W. to Hill Place S.W. and the change in roadway designation platted in Folwell West Third from Hill Avenue S.W. to Hill Place S.W. and instructed the City Attorney to prepare the required ordinance for adoption. |
| D-12 | Adopted Resolution No. 609-03 approving Supplemental Agreement #2 in the amount of \$1,507.00 for Project No. M1-69 (J-9824) "Highway 52 East Frontage Road 33 rd Street to 37 th Street N.W." |
| D-13 | Adopted Resolution No. 610-03 approving Supplemental Agreement #1 in the amount of \$4,833.00 for Project No. M1-69 (J-9824) "Highway 52 East Frontage Road 33 rd Street to 37 th Street N.W." |
| D-14 | Adopted Resolution No. 611-03 supporting Minnesota's Conservation Reserve Enhancement Program application to the US Department of Agriculture and supporting legislation to adequately fund the Reinvest in Minnesota Program (RIM) and Conservation Reserve Program (CRP) programs to attain the Conservation Reserve Enhancement Program (CREP) water quality protection objectives. |
| D-15 | Adopted Resolution No. 612-03 authorizing execution of the Amended Pedestrian Facilities Agreement with AGD Airport Hotel Limited Partnership, owner of the Sleep Inn Hotel and Leasee of real property in the NE1/4 of Section 10, Township 105 North, Range 14 West, Olmsted County, Minnesota. |
| D-16 | Adopted Resolution No. 613-03 authorizing a Pedestrian Facilities Agreement with JLC Properties of Rochester, LLP for the proposed Perkins Family Restaurant. |
| D-17 | Adopted Resolution No. 614-03 approving execution of a Contribution & Pedestrian Facilities Agreement with Queen City Construction for real property described as part of the NE ¼, NE ¼, Section 26, Township 106 North, Range 14 West, Olmsted County, Minnesota. |
| D-18 | Adopted Resolution No. 615-03 approving execution of a Pedestrian Facilities Agreement with Rick Emerson for Lot 1, Block 1, Alliance Business Park First Replat. |
| D-19 | Adopted Resolution No. 616-03 approving execution of a Pedestrian Facilities Agreement with James and Sandra Buchan for Lot 2, Block 1, Domaille-Postier Subdivision. |
| D-20 | Adopted Resolution No. 617-03 approving execution of a Pedestrian Facilities Agreement with Mike and Nancy Hass for Lot 11, Elmcroft Subdivision No. 2. |

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| D-21 | Adopted Resolution No. 618-03 approving execution of a Pedestrian Facilities Agreement with Waters Instruments, Inc. for proposed Metes & Bounds Subdivision. |
| D-22 | <p>Adopted Resolution No. 619-03 approving a Site Access and Stormwater Conveyance Agreement with Mayo Clinic Rochester, a Minnesota non-profit corporation, the North 142.00 feet of Lots 1 & 2, Block 2, Head and McMahon's Addition together with all of Lots 3 & 4, Block 2, Head and McMahon's Addition and the vacated alley abutting said Lots 3 & 4, Block 2, Olmsted County, Minnesota.</p> <p>Councilmember Stobaugh noted his working relationship with the Mayo Foundation.</p> |
| D-23 | Adopted Resolution No. 620-03 approving the execution of the City/Owner Contract for J-5107 "Public Improvements Stonehedge Townhomes Third" with Stonehedge Development, LLC and Elcor Construction, Inc. |
| D-24 | Adopted Resolution No. 621-03 approving the execution of the City/Owner Contract for J-5093 "Basic Construction in Valley Side Estates Third" with Lumber One Avon, Inc. and Elcor Construction, Inc. |
| D-25 | Adopted Resolution No. 622-03 approving the execution of the City/Owner Contract for J-5103 "Public Improvements to Serve the First Baptist Church Property" with First Baptist Church and Rochester Sand & Gravel, a division of Mathy Construction, Inc. |
| D-26 | Adopted Resolution No. 623-03 approving the execution of the City/Owner Contract for J-5063 "Curb & Gutter Reconstruction on West Center Street and Fifth Avenue N.W. to Serve the residence Inn" with Sunstone Hotels Rochester, LLC and Knutson Construction Services, Inc. |
| D-27 | Adopted Resolution No. 624-03 approving the increased driveway width to 36.00 feet for the access serving the Fairway Ridge project from Circle Drive for Silvercrest Properties. |
| D-28 | <p>Adopted Resolution No. 625-03 amending the Comprehensive Traffic and Parking Resolution to add Paragraph 7.2 to Section H "Zone F – 2 Hour Parking" as follows:</p> <p style="padding-left: 40px;">(7.2) 19th Avenue SW on the west side, from 2nd Street SW to a point 125 feet more or less south of 2nd Street SW, Monday through Saturday.</p> |
| D-29 | Directed the Planning Department to prepare an amendment to the Special Historic District to amend Subdivision 5 – Signs. |
| D-30 | <p>Adopted Resolution No. 626-03 approving a City/Owner Contract with Joel Bigelow & Sons Enterprises, Inc. and Road Constructors for Project No. J-5019 "Sanitary Sewer to Serve Harvestview II (from Weatherstone to Kingsbury Hills Fourth)".</p> <p>Ayes (7), Nays (0). Motion carried.</p> |

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| E-1 | <p data-bbox="362 342 1430 405">A Hearing on Truth-In-Taxation for the Proposed 2004 Budget and Property Taxes for the City of Rochester.</p> <p data-bbox="354 443 1446 947">Steve Kvenvold, City Administrator, gave a brief summary of the current budget and the recommended 2004 budget. He noted that the Council will be reviewing individual departmental budgets on December 16 and 17. The final adoption of the budget is scheduled for December 22, 2003, at 5:00 P.M. He presented physical trend data actual for 2003 as compared to proposed 2004. Many of the services provided by the City are directly affected by the growth of the City which continues at a fast pace. The area of the City has gone up 30.5 percent. In 2002 there was almost 1500 acres annexed into the City for new development. In 2003 there has been 732 acres annexed. Population has increased from 1993 to 2002 by over 17,000 people equaling the entire population of Northfield. Mr. Kvenvold showed various graphs and slides outlining how tax levies and other monies are used for various functions within the City. He noted that positions that are unfilled will remain vacant and only two new positions will be approved for the storm water program. The proposed 2004 budget program expenditures of \$143,031,543 would require a property tax levy of \$27,189,112.</p> <p data-bbox="345 978 1430 1346">Wishing to be heard was Matt Paschal, 2121 Eighth Avenue N.E. Mr. Paschal came this evening to express his support for the Rochester Police Department 2004 budget proposal. He also handed out a videotape from KARE-11 News in Minneapolis showing the impact of budget cuts on the Police Department in Minneapolis. The number of officers in Minneapolis since 1997 has decreased approximately 20 percent. Rochester Police Chief Peterson predicted that as many as 40 officers could be laid off in Rochester due to state aid cuts. Mr. Paschal hoped that the number has changed due to lesser state aid decreases and the proposed tax levy increase. He asked the Council to support the Rochester Police Department in this budget process. Mr. Paschal said that Public Safety should be the highest priority of the City.</p> <p data-bbox="337 1377 1422 1755">Wishing to be heard was John Wade, 39 Riverbluff Place N.W., President of the Rochester Chamber of Commerce. He said that the Chamber appreciates the time and effort that the Council and staff have worked to construct the 2004 City budget. He said that Steve Kvenvold has indicated that the City is striving to reduce its operating budget by approximately \$3.4 million. There has been a savings of over \$1 million due to the vacant positions currently within the City. Government needs to do more with less. Priorities need to be made. Employees need to take on more responsibility. Mr. Wade said that the Chamber has concerns that the City will make up the \$3.4 million in cuts by imposing additional fees in 2004. The Chamber organization is against fees that are channeled into the general fund. The Chamber will closely monitor and work with the City to watch new fees proposed.</p> <p data-bbox="329 1776 1406 1955">Wishing to be heard was John Reynolds, 3524 Sixth Place N.W. Mr. Reynolds wanted to congratulate the Council and staff on the proposed 2004 budget. He said that there possibly could be other ways to trim. Some services will be lost and some fees will be increasing. He did say, however, that he believes that growth in government is moving a little faster than growth in the City and inflation.</p> |

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| | <p>Councilmember McConnell said that he is satisfied with the budget. He realizes that many of the cuts have been forced on the City and necessitate the increase in the levy.</p> |
| | <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> |
| | <p>The adoption of the final budget will be at 5:00 P.M. on December 22, 2003.</p> |
| E-2 | <p>A Continued Hearing on Final Plat #03-28 by GAC Theaters, Inc. to be known as Chateau Second Replat located along the north side of East Circle Drive NE, east of TH63.</p> <p>Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the applicant. He noted that they were in agreement with the four conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, McConnell seconded, to adopt Resolution No. 627-03 approving Final Plat #03-28 by GAC Theaters, Inc. to be known as Chateau Second Replat with four conditions. Ayes (7), Nays (0). Motion carried.</p> |
| E-3 | <p>Adoption of the Corridor Management Plan for the 60th Avenue/75th Street N.W. Expressway.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmember Marcoux asked if additional right-of-way would be needed for this project. Mike Nigbur, Public Works Department, stated that Olmsted County may be the lead agency for the project. A 60-foot right-of-way dedication would be inadequate.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to adopt Resolution No. 628-03 approving the Corridor Management Plan for the 60th Avenue/75th Street N.W. Expressway. Ayes (7), Nays (0). Motion carried.</p> |
| E-4 | <p>Adoption of the Circle Drive Traffic and Access Management Policy Plan.</p> <p>Wishing to be heard was H. W. Swanson, 3415 Seventh Street N.W. He asked if certain traffic signals, such as the one at Bamber Valley Road and Salem Road could be modified to keep a continuous arrow to the westbound through movement for continued traffic flow rather than have the traffic stop. He said that there were other areas of the City that could be utilized in the same fashion.</p> <p>President Hunziker stated that the two roads mentioned were Olmsted County controlled but that the suggestion would be passed on to them.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> |

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Councilmembers Hanson moved, Marcoux seconded, to adopt Resolution No. 629-03 approving the Circle Drive Traffic and Access Management Policy Plan. Ayes (7), Nays (0). Motion carried.

A Continued Hearing on Zoning District Amendment #03-19 by Forbrook-Bigelow Development to rezone from R-1 to B-4 property located along the south side of 7th Street NW and along the east side of West Circle Drive and north of Lake Street NW.

Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the applicant. Mr. Masterpole reminded the Council that last month the land use was denied by the Council. He said that the applicant would like to apply for B-5 zoning. All uses except day care are approved uses. B-5 will allow for more uses and flexibility. Mr. Masterpole said that the applicant will probably be coming back to the Council to ask for a R-1x zoning for the northeast corner of the parcel to allow for townhomes or duplexes.

Phil Wheeler, Planning Department Director, noted that the northeast parcel will remain R-1 until approved by the Council for a zone change.

Wishing to be heard was John Reynolds, 3524 Sixth Place N.W. Mr. Reynolds said that he was in agreement with the change to B-5 because it "makes sense".

Wishing to be heard was Haddon Carryer, 3324 Lakeridge Drive N.W. Mr. Carryer said that he can support the change request to B-5. Although he would rather the land zone stay at R-1, B-5 is a compromise. He was still concerned about the traffic flow onto Lakeridge Lane N.W. He thinks that such uses as doctors, accountants, dry cleaners, or dentists would work because of the lower amount of traffic generation through the neighborhood. Such businesses as restaurants or a Dairy Queen operation would not work. Mr. Carryer said that the property does not support high traffic generation. He urged the Council to support the B-5 zone change and consider the neighborhood.

Wishing to be heard was Joan DeWitz, 3268 Lake Street N.W. She said that she is aware that the Planning Commission will be considering some changes in type of permitted businesses to the B-5 zone areas. What will those changes be? Ms. DeWitz was told that the proposed changes would be heard by the Planning Commission in another week. Anything that is done this evening would not be affected by those changes in the B-5 district uses. Ms. DeWitz then said that the northeast corner of the property is currently R-1 for three single family lots. The neighborhood would wish to keep them R-1 for single family dwellings.

Wishing to be heard was Harleth Swanson, 3415 Seventh Street N.W. Mr. Swanson said that a B-5 district is a concern to him. Depending on the businesses being considered, there could be a lot of noise, lights, traffic, garbage, etc. With the current traffic, it is difficult to get out of the driveway.

Having no one further wishing to be heard, President Hunziker closed the hearing.

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| E-6 | <p>Councilmembers Hanson moved, Means seconded, to approve Zoning District Amendment #03-19 by Forbrook-Bigelow Development and instruct the City Attorney to prepare the required ordinance for adoption. Discussion.</p> <p>Councilmember Means asked about the concerns for the additional traffic on Lakeridge Lane N.W.</p> <p>Phil Wheeler, Planning Department Director, said that there has been concern about increased traffic on West Circle Drive and Seventh Street. He said that not all the traffic is the result of this development. The increased traffic from this development should be on the order of eight times the number of dwelling units plus whatever is generated from the commercial traffic. The B-5 district is a lower volume trip generator than a B-1 or B-4. There will be about 352 trips per day from the residential section of this development which is well under the projected background growth in traffic for the general area.</p> <p>Ayes (7), Nays (0). Motion carried.</p> <p>A Continued Hearing on General Development Plan #217 to be known as Oakridge Manor by Forbrook-Bigelow Development on property located along the south side of 7th Street NW and along the east side of West Circle Drive and north of Lake Street NW including Substantial Land Alteration and Design Modification #03-18.</p> <p>Wishing to be heard was Andy Masterpole, Yaggy-Colby Associates. He asked the Council to approve all three requests and noted their agreement with the seven conditions. In response to a Councilmember, Mr. Masterpole noted that the substantial land alternation excavated material would stay on site.</p> <p>Wishing to be heard was John Reynolds, 3524 Sixth Place N.W. He asked the Council to approve the request. Mr. Reynolds said it was a good plan with the B-5 zoning on the corner.</p> <p>Wishing to be heard was Haddon Carryer, 3324 Lakeridge Drive N.W. Mr. Carryer was concerned about the location of the driveway saying it should be moved further into the corner of the curve and back from the single family properties.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers asked for clarification on the driveway location for the townhomes. Andy Masterpole, Yaggy-Colby, said that there is 7-8 percent slope on the proposed street coming around the curve which would not be conducive to the driveway being placed there for safety reasons. There is approximately 50 feet separation from the proposed driveway and the single family homes. The space in between lots 1, 2, and 3 and the driveway will be open space.</p> <p>Councilmembers Hanson moved, Stobaugh seconded, to adopt Resolution No. 630-03 approving General Development Plan #217 to be known as Oakridge Manor by Forbrook-Bigelow Development with seven conditions and including Substantial</p> |

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| E-7 | <p>Land Alteration and Design Modification #03-18 and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> <p>A Hearing on Type III, Phase III Conditional Use Permit #03-53 by Degeus Properties LLC to allow for the placement of fill in the flood prone area on property located along the east side of TH63 and south of Wood Lake Drive S.E.</p> <p>Wishing to be heard was Pete Schuller, 209 Wood Lake Drive S.E., representing the applicant. He noted agreement with the two conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to adopt Resolution No. 631-03 approving Conditional Use Permit #03-53 by Degeus Properties LLC with two conditions. Ayes (7), Nays (0). Motion carried.</p> |
| E-8 | <p>A Hearing on Preliminary Plat #03-36 to be known as Fox Trails by Roger Carlsen located north of 19th Street N.W., west of West Circle Drive and south of the Badger Ridge Development and includes approval of Substantial Land Alteration activity.</p> <p>Wishing to be heard was Andy Masterpole, Yaggy-Colby Associates, on behalf of the applicant. Mr. Masterpole said that they were in agreement with the ten conditions.</p> <p>Gary Neumann, Assistant City Administrator, explained Condition #9 to the Councilmembers. He said that when the flood reservoirs were set up around the city, the Department of Natural Resources (DNR) was indicating that the City should go beyond the current 100-year flood plain and zone additional areas as floodplain because these were man-made structures and potentially subject to failure. The Federal Emergency Management Administration (FEMA) would say that you could narrow the whole floodplain down to the width that comes out of the pipe in the front of the dam. Views vary from a very wide protection area to a very narrow protection area. The DNR now has indicated that it is up to the City and the City could adopt the view of FEMA in which case houses could be built very close to the channel in the face of the dams. Mr. Neumann said that currently the 100-year flood plain is in effect in the front of the dams. However, before the dam would top significant water would come through the emergency spillway. Staff is indicating that perhaps the 100-year flood plain is necessary; however, it may not be wise to go down to a standard that would mean almost no flood plain. The City is moving toward calculating the 100-year floodplain based on the flow for the emergency spillway. Condition #9 is a staff position that the City is intending to change for all the flood structures.</p> <p>Wishing to be heard was Kurt Naumann, 2673 Monroe Drive N.W. Mr. Naumann lives at the northern edge of the development. He said that there is barbed wire fence on the northern edge of the property that he would like to see removed. The stormwater holding pond, two homes from his, was very full during the one significant rainstorm of the season. He said it may be prudent to follow the 100-</p> |

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| | <p>year floodplain in this instance. Mr. Naumann said that there is a wooded area in one corner of the property with mature trees that he would like to see kept. He wondered what the plans are for the area. He asked about a timeframe for Phase III of the development. Mr. Naumann asked if there were any plans for the brush dump?</p> <p>Wishing to be heard was Andy Masterpole, McGhie & Betts. Mr. Masterpole said that single family homes will be going above the wooded area with as many trees retained as possible. He said that they do not have a timetable for the Phase III project as of yet.</p> <p>Gary Neumann, Assistant City Administrator, said that the brush dump operation is on a yearly rental basis. It is anticipated that at some point, the brush dump will have to be moved. It is a critical facility for the community. Other sites are being considered.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to Resolution No. 632-03 with ten conditions and includes approval of Substantial Land Alteration activity, and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> |
| E-9 | <p>A Hearing on Revised Final Plat #03-31 by Arcon Development, Inc. to be known as Crimson Ridge Second Subdivision located along the west side of 18th Avenue N.W. and north of the Volunteers of America Development.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Stobaugh seconded, to adopt Resolution No. 633-03 approving Revised Final Plat #03-31 by Arcon Development, Inc. to be known as Crimson Ridge Second Subdivision with four conditions. Ayes (7), Nays (0). Motion carried.</p> |
| E-10 | <p>A Hearing on Final Plat #03-40 to be known as Harvestview First Replat by Joel Bigelow & Sons Enterprises, Inc. located along the north side of 55th Street N.W. and along the west side of 50th Avenue N.W.</p> <p>Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the applicant.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers McConnell moved, Means seconded, to adopt Resolution No. 634-03 approving Final Plat #03-40 to be known as Harvestview First Replat by Joel Bigelow & Sons Enterprises, Inc. with three conditions. Ayes (7), Nays (0). Motion carried.</p> |

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| E-11 | <p data-bbox="365 342 1372 447">A Hearing on Zoning District Amendment #03-21 by Accessible Space, Inc. to amend zoning from B-4 to B-1 on property located along the south side of Eastwood Road S.E. and east of Casey's General Store.</p> <p data-bbox="365 478 1437 846">Wishing to be heard was Tom Murphy, 270 Salem Point Drive, owner of McMurphy's and Aquarius. He stated that was against the zoning change because the business would not be compatible with the surrounding area. Mr. Murphy said that when he was looking for an area to build his business, he looked for something that was commercial in nature and would not interfere with residential areas. His business lets out at early morning hours, tires squeal when cars are exiting the parking lot and other things come with that as well. The only complaint about his business operation that has come before the Council in the last 19 years has been from the Post Office. A 15-unit apartment complex which would change some of the area from B-4 to B-1 would be incompatible. He asked the Council to leave the zoning as it now is as a B-4.</p> <p data-bbox="365 877 1421 1140">Wishing to be heard was Maynard Bostrom, 539 North Broadway. Mr. Bostrom informed the Council that the applicant, Mike Bjerkesett, was unable to attend the Council meeting and asked that the item be tabled to the December 15, 2003, meeting. Mr. Bostrom also commented that he has lived for the past three years two doors away from the North Star Bar and Grill and finds no disturbances to him from that business' operation. He does not think that the site location proposed for the project by Mike Bjerkesett will be any different as far as distance or traffic from his present housing.</p> <p data-bbox="365 1171 1429 1276">Councilmembers Hanson moved, Nowicki seconded, to continue to December 15, 2003, Zoning District Amendment #03-21 by Accessible Space, Inc. Ayes (7), Nays (0). Motion carried.</p> |
| E-12 | <p data-bbox="365 1318 1388 1486">A Hearing on Text Amendment #03-08 Initiated by the Rochester Planning and Zoning Commission to modify some of the Zoning District Descriptions in Section 60.321 of the Rochester Zoning Ordinance and Land Development Manual to provide for establishing zoning districts in undeveloped areas in addition to establishing them to maintain developed areas.</p> <p data-bbox="365 1486 1307 1528">Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p data-bbox="365 1549 1380 1686">Councilmembers Stobaugh moved, Nowicki seconded, to approve Text Amendment #03-08 Initiated by the Rochester Planning and Zoning Commission and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p> |
| E-13 | <p data-bbox="365 1717 1372 1791">A Hearing to Receive Testimony and Evidence on the Appeal From a Potentially Dangerous Dog Determination Regarding Three Dogs Owned by Amy Solum.</p> <p data-bbox="365 1822 1412 1990">Wishing to be heard was Paula Stewart, 5138 Third Street N.W., owner of Paws-ability Dog Training. She noted that she has been doing behavior-based teaching since the 1970's. Ms. Stewart noted that although she was hired by Amy Solum, she is presenting information based on her profession and may or may not be in agreement with either side in the issue. She reviewed the Facts and Findings of the</p> |

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hearing previously held and has limited experience with the dogs in question. Ms. Stewart talked about the dogs on an individual basis stating that the dog, Jackson was a bully, Bosco was a wimp and Jubei was a herd dog. She noted that Jackson had an opportunity to hurt the neighbor dog, a German Shepherd named Jedd but did not do so. She felt that the dogs were trainable. She stated that the fault lay with the owner of the dogs in not controlling them. Ms. Solum now has a six-foot fence and locked gate to prevent the same from reoccurring. She said that she would be willing to work with the dogs and their owner to try to correct the behavior problems that she sees.

Wishing to be heard was Robert Tibesar, 928 Tenth Street S.E. He stated that he was outside with his dog, Jebb, when the three dogs owned by Amy Solum attacked. He said that RCO 106A.18 subd. 1(b) was clear that the dogs should be declared as potentially dangerous as defined in the ordinance.

Wishing to be heard was Shawn Smith, 945 Tenth Street S.E. Mr. Smith was visiting the Tibesar's when the dog attack took place. He noted that a baseball bat was used to break Jackson off of Jebb and that Bosco also was involved in the fight. He said that he had been bitten when trying to break up the fight. The third dog chased a neighborhood child down the sidewalk causing the child to fall.

Wishing to be heard was Denise Dunbar, 910 Tenth Street S.E. Ms. Dunbar explained that she had been visiting the Tibesar's when the three dogs ran to the property. Her son was the child that was chased by the third dog, Jubei. She said that her son had not previously been afraid of dogs, having played with Jebb, but was not extremely scared of the animals. When falling, he injured his knee, elbow and side.

Wishing to be heard was Amy Tibesar, 928 Tenth Street S.E. Ms. Tibesar also told of the attack and the resulting breakup of the fight by her husband and neighbor.

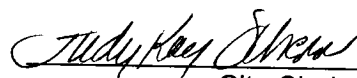
Wishing to be heard was Barb Solum, 3827 Strathmore Lane S.E. Ms. Solum is the Mother of Amy Solum. She said that the dogs had lived at her home prior to Amy buying the house at 924 Tenth Street S.E. and having the dogs live with her. She said that there had been no incidents prior to July 2, 2003.

Wishing to be heard was Francis Mcilmail, 932 Tenth Street S.E. Mr. Mcilmail said that he had lived in the neighborhood ten years. The neighborhood is full of children. He is concerned for their safety with dogs like the Solum's living in her home.

Wishing to be heard was Amy Solum, 924 Tenth Street S.E. Ms. Solum apologized for the action caused by her dogs. She said that she was not in control of them during the situation. She did say that the gate to the fenced-in area had been secured and that the officer on the scene on July 2, 2003, said he was unable to see how the dogs could have gotten out. There is now a padlock on the gate.

Wishing to be heard was Brook Solum, 516 Second Street S.W. Ms. Solum had been taking care of animals in the sister's absence. She did not notice that they

| Agenda Item | |
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| | <p>had gotten out of the fenced-in area. She said that the gate had been shut and locked previously.</p> <p>Wishing to be heard was Paula Stewart, 5138 Third Street N.W., said it was entirely possible for two dogs to fight and hate each other but not harm each other.</p> <p>Wishing to be heard was Shawn Smith, 945 Tenth Street S.E. Mr. Smith said that the dogs in the past have chased people down the street and bikepath.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing. Councilmembers agreed that RCO 106.18, subd. 1(b) was very clear in what constituted a potentially dangerous dog.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded, to adopt the Findings of Fact, Conclusions of Law, and Order of the Animal Review Panel finding the dogs potentially dangerous. Ayes (7), Nays (0). Motion carried.</p> <p>Findings of Fact, Conclusions of Law, and Order.</p> |
| G-2a | <p>An Ordinance Amending and reenacting Section 75.01 of the Rochester Code of Ordinances, Relating to a Change in the Designation of That Portion of Sixth Street S.W., That Abuts Lot 5, Block 1 Platted in Folwell West Second Subdivision to Hill Place S.W., and a Change in the designation of Hill Avenue S.W., Platted in Folwell West Third Subdivision, to Hill Place S.W., was given a first reading.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to suspend the rules and give the Ordinance a second reading. Ayes (7), Nays (0). Motion carried. The Ordinance was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.</p> |
| G-2b | <p>An Ordinance Rezoning Approximately 2.40 Acres of Property From the R-1 Zoning District to the B05 Zoning District and 13.32 Acres of Property from the R-1 Zoning District to the R-1x Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zoning District Amendment #03-19 – South Side of Seventh Street NW, Along East Side of West Circle Drive, North of Lake Street NW)</p> |
| G-2c | <p>An Ordinance Amending and Reenacting Section 60.323 of the Rochester Code of Ordinances, Relating to Development Criteria for Special Districts, was given a first reading. (Text Amendment #03-08)</p> |
| J-1 | <p>Having no further business, Councilmembers Marcoux moved, Nowicki seconded, to adjourn the meeting. Ayes (7), Nays (0). Motion carried.</p> |


City Clerk